

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

13-RC-275444

Date Filed

4/12/21

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov/](http://www.nlr.gov/), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

<b>2a. Name of Employer:</b> Imperial Crane Services, Inc.		<b>2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):</b> 9735 Industrial Drive Bridgeview, IL 60455	
<b>3a. Employer Representative - Name and Title:</b> G. Larry Eckardt, Vice-President of Operations		<b>3b. Address (if same as 2b - state same):</b> Same.	
<b>3c. Tel. No.</b> 708/598-2300	<b>3d. Cell No.</b> 708/417-0334	<b>3e. Fax No.</b> 708/598-2313	<b>3f. E-Mail Address</b> gleckardt@imperialcrane.com
<b>4a. Type of Establishment (Factory, mine, wholesaler, etc.)</b> Construction		<b>4b. Principal Product or Service</b> Equipment Rental	<b>5a. City and State where unit is located:</b> Bridgeview, Illinois
<b>5b. Description of Unit Involved:</b> <b>Included:</b> See attached Rider. <b>Excluded:</b> See attached Rider.			<b>6a. Number of Employees in Unit:</b> 56  <b>6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Check One:</b> <input checked="" type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) 04/08/21 and Employer declined recognition on or about (Date) Eckardt ran away. (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
<b>8a. Name of Recognized or Certified Bargaining Agent (if none, so state)</b> None.		<b>8b. Address:</b> N/A	
<b>8c. Tel. No.</b> N/A	<b>8d. Cell No.</b> N/A	<b>8e. Fax No.</b> N/A	<b>8f. E-Mail Address</b> N/A
<b>8g. Affiliation, if any:</b> N/A		<b>8h. Date of Recognition or Certification</b> N/A	<b>8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)</b> N/A
<b>9. Is there now a strike or picketing at the Employer's establishment(s) involved?</b> No If so, approximately how many employees are participating? (Name of Labor Organization) N/A, has picketed the Employer since (Month, Day, Year) N/A			
<b>10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (if none, so state)</b> None.			
<b>10a. Name</b> N/A		<b>10b. Address</b> N/A	
<b>10c. Tel. No.</b> N/A		<b>10d. Cell No.</b> N/A	
<b>10e. Fax No.</b> N/A		<b>10f. E-Mail Address</b> N/A	
<b>11. Election Details:</b> If the NLRB conducts and election in this matter, state your position with respect to any such election:			<b>11a. Election Type:</b> <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
<b>11b. Election Date(s):</b> May 4, 2021		<b>11c. Election Time(s):</b> 7:00 a.m. - 10:00 a.m.	
<b>11d. Election Location(s):</b> Employer's Shop			
<b>12a. Full Name of Petitioner (including local name and number):</b> International Union of Operating Engineers, Local 150, AFL-CIO		<b>12b. Address (street and number, city, State and ZIP code):</b> 6200 Joliet Road Countryside, IL 60525	
<b>12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state):</b> International Union of Operating Engineers			
<b>12d. Tel. No.</b> 708/482-8800	<b>12e. Cell No.</b> N/A	<b>12f. Fax No.</b> 708/588-1623	<b>12g. E-Mail Address</b> N/A
<b>13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.</b>			
<b>13a. Name and Title:</b> Dale D. Pierson, General Counsel		<b>13b. Address (street and number, city, State and ZIP code):</b> Local 150 Legal Department 6140 Joliet Road, Countryside, IL 60525	
<b>13c. Tel. No.</b> 708/579-6663	<b>13d. Cell No.</b> N/A	<b>13e. Fax No.</b> 708/588-1647	<b>13f. E-Mail Address</b> dpierson@local150.org
<b>I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.</b>			
<b>Name (Print)</b> Robert A. Paszta		<b>Signature</b> /s/ Robert A. Paszta	<b>Title</b> Attorney
			<b>Date</b> 04/09/21

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)  
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

## **RIDER**

### **5b. Description of Unit Involved:**

#### **Included:**

All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed at the Employer's facilities in Local 150's Jurisdiction.

#### **Excluded:**

Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (312)353-7570  
Fax: (312)886-1341



Download  
NLRB  
Mobile App

**URGENT**

April 12, 2021

Dale D. Pierson, Esq., General Counsel  
International Union of Operating Engineers, Local 150, AFL-CIO  
6140 Joliet Rd  
Legal Department  
Countryside, IL 60525-3956

Re: Imperial Crane Services, Inc.  
Case 13-RC-275444

Dear Mr. Pierson:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney Christina B. Hill whose telephone number is (312)353-7599 and whose e-mail address is [christina.hill@nlrb.gov](mailto:christina.hill@nlrb.gov). The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Examiner Matthew Persons whose telephone number is (312)353-4242. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Showing of Interest:** If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Friday, April 30, 2021** at, **219 S Dearborn Street, Suite 808, Chicago, IL 60604**, or via **ZOOM videoconference** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Posting and Distribution of Notice:** The Employer must post the enclosed Notice of Petition for Election by **April 19, 2021** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

**Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Central Time on April 22, 2021**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

**Required Responsive Statement of Position (RSOP):** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on April 27, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.



*Failure to Supply Information:* Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Voter List:** If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

**Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

***/s/ Kate Gianopulos***

Kate Gianopulos  
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc: Robert A. Paszta, Associate General  
Counsel  
International Union of Operating  
Engineers, Local 150, AFL-CIO  
6140 Joliet Road  
Countryside, IL 60525

International Union of Operating  
Engineers Local 150  
6200 Joliet Rd  
Countryside, IL 60525-3992



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers Local 150 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 13-RC-275444 seeking an election to become certified as the representative of the employees of IMPERIAL CRANE SERVICES, INC. in the unit set forth below:

**Included:** All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed at the Employer's facilities in Local 150's Jurisdiction. **Excluded:** Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (312)353-7570.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board





**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**



<b>IMPERIAL CRANE SERVICES, INC.</b>  <b>Employer</b>  <b>and</b> <b>International Union of Operating Engineers Local 150</b>  <b>Petitioner</b>	<b>Case 13-RC-275444</b>
---	--------------------------

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:00 AM on **Friday, April 30, 2021** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604 or via ZOOM videoconference, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, IMPERIAL CRANE SERVICES, INC. must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on **April 22, 2021**. Following timely filing and service of a Statement of Position by Imperial Crane Services, Inc., the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **April 22, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: April 12, 2021

/s/ Daniel N Nelson

Daniel N. Nelson  
Acting Regional Director  
National Labor Relations Board  
Region 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional



form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-275444

Date Filed  
April 12, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 13-RC-275444
-----------	-----------------------------

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

## A. TOTAL:

## B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES )

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-275444

Date Filed  
April 12, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**  
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (312)353-7570  
Fax: (312)886-1341



Download  
NLRB  
Mobile App

**URGENT**

April 12, 2021

Larry Eckardt, VP Of Operations  
9735 Industrial Drive  
Bridgeview, IL 60455

Re: Imperial Crane Services, Inc.  
Case 13-RC-275444

Dear Mr. Eckardt:

Enclosed is a copy of a petition that International Union of Operating Engineers Local 150 filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney Christina B. Hill whose telephone number is (312)353-7599 and whose e-mail address is [christina.hill@nlrb.gov](mailto:christina.hill@nlrb.gov). The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Examiner Matthew Persons whose telephone number is (312)353-4242. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible by **April 19, 2021**. If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and

obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on April 22, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party

contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Responsive Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Central Time on April 27, 2021**.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Friday, April 30, 2021 at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604, or via ZOOM videoconference** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);

- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native

format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

***/s/ Kate Gianopulos***

Kate Gianopulos  
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers Local 150 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 13-RC-275444 seeking an election to become certified as the representative of the employees of IMPERIAL CRANE SERVICES, INC. in the unit set forth below:

**Included:** All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed at the Employer's facilities in Local 150's Jurisdiction. **Excluded:** Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (312)353-7570.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board







**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**



<b>IMPERIAL CRANE SERVICES, INC.</b>  <b>Employer</b>  <b>and</b> <b>International Union of Operating Engineers Local 150</b>  <b>Petitioner</b>	<b>Case 13-RC-275444</b>
---	--------------------------

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:00 AM on **Friday, April 30, 2021** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604 or via ZOOM videoconference, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Imperial Crane Services, Inc. must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than **noon** Central time on April 22, 2021. Following timely filing and service of a Statement of Position by Imperial Crane Services, Inc., the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **April 22, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: April 12, 2021

/s/ **Daniel N Nelson**

Daniel N. Nelson  
Acting Regional Director  
National Labor Relations Board  
Region 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-275444

Date Filed  
April 12, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative	9b. Signature of authorized representative	9c. Date	
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 13-RC-275444
-----------	-----------------------------

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

## A. TOTAL:

## B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES )

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-275444

Date Filed  
April 12, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**  
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

IUOE, Local 150
and
Imperial Crane Services, Inc.

CASE 13-RC-275444

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
Imperial Crane Services, Inc. (Employer)

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Harry J. Secaras and Norma Manjarrez	
MAILING ADDRESS: Ogletree Deakins, 155 N. Wacker Drive, Suite 4300, Chicago, IL 60606	
E-MAIL ADDRESS: harry.secaras@ogletree.com; norma.manjarrez@ogletree.com	
OFFICE TELEPHONE NUMBER: Secaras: 312.558.1254; Manjarrez: 312.558.1235	
CELL PHONE NUMBER: 312.533.1991 (Secaras)	FAX: 312.807.3619
312.415.7530 (Manjarrez)	
SIGNATURE: /s/ Harry J. Secaras	
(Please sign in ink.)	
DATE: April 13, 2021	

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (312)353-7570  
Fax: (312)886-1341

April 30, 2021

**(Via email service unless otherwise indicated)**

Harry J. Secaras, Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
155 N Wacker Dr Ste 4300  
Chicago, IL 60606-1731  
[harry.secaras@ogletree.com](mailto:harry.secaras@ogletree.com)

Norma Manjarrez, Attorney  
Ogletree Deakins  
155 North Wacker Drive  
Suite 4300  
Chicago, IL 60606  
[norma.manjarrez@ogletree.com](mailto:norma.manjarrez@ogletree.com)

Re: Imperial Crane Services, Inc.  
Case 13-RC-275444

Dear Mr. Secaras and Mrs. Manjarrez:

This is to advise you that the Petitioner's request to withdraw the petition in the above case has been approved.

Very truly yours,

*/s/ Daniel N. Nelson*

Daniel N. Nelson  
Acting Regional Director

cc: Larry Eckardt, VP Of Operations  
9735 Industrial Drive  
Bridgeview, IL 60455  
[gleckardt@imperialcrane.com](mailto:gleckardt@imperialcrane.com)

International Union of Operating  
Engineers, Local 150, AFL-CIO  
6200 Joliet Rd  
Countryside, IL 60525-3992  
*Via first class mail*

Dale D. Pierson, Esq., General Counsel  
International Union of Operating  
Engineers, Local 150, AFL-CIO  
6140 Joliet Rd  
Legal Department  
Countryside, IL 60525-3956  
[dpierson@local150.org](mailto:dpierson@local150.org)

Robert A. Paszta, Associate General  
Counsel  
International Union of Operating  
Engineers, Local 150, AFL-CIO  
6140 Joliet Road  
Countryside, IL 60525  
[rpaszta@local150.org](mailto:rpaszta@local150.org)



UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

13-RC-276523

Date Filed

5/3/2021

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov/](http://www.nlr.gov/), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

<b>2a. Name of Employer:</b> Imperial Crane Services, Inc.		<b>2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code):</b> 9735 Industrial Drive Bridgeview, IL 60455	
<b>3a. Employer Representative - Name and Title:</b> G. Larry Eckardt, Vice-President of Operations		<b>3b. Address (if same as 2b - state same):</b> Same.	
<b>3c. Tel. No.</b> 708/598-2300	<b>3d. Cell No.</b> 708/417-0334	<b>3e. Fax No.</b> 708/598-2313	<b>3f. E-Mail Address</b> gleckardt@imperialcrane.com
<b>4a. Type of Establishment (Factory, mine, wholesaler, etc.)</b> Construction		<b>4b. Principal Product or Service</b> Equipment Rental	<b>5a. City and State where unit is located:</b> Bridgeview, Illinois
<b>5b. Description of Unit Involved:</b> <b>Included:</b> See attached Rider. <b>Excluded:</b> See attached Rider.			<b>6a. Number of Employees in Unit:</b> 56
			<b>6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Check One: <input checked="" type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) 04/08/21 and Employer declined recognition on or about (Date) Eckardt ran away. (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
<b>8a. Name of Recognized or Certified Bargaining Agent (if none, so state)</b> None.		<b>8b. Address:</b> N/A	
<b>8c. Tel. No.</b> N/A	<b>8d. Cell No.</b> N/A	<b>8e. Fax No.</b> N/A	<b>8f. E-Mail Address</b> N/A
<b>8g. Affiliation, if any:</b> N/A		<b>8h. Date of Recognition or Certification</b> N/A	<b>8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)</b> N/A
9. Is there now a strike or picketing at the Employer's establishment(s) involved? <u>No</u> If so, approximately how many employees are participating? _____ (Name of Labor Organization) <u>N/A</u> , has picketed the Employer since (Month, Day, Year) <u>N/A</u>			
10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) None.			
<b>10a. Name</b> N/A		<b>10b. Address</b> N/A	
		<b>10c. Tel. No.</b> N/A	<b>10d. Cell No.</b> N/A
		<b>10e. Fax No.</b> N/A	<b>10f. E-Mail Address</b> N/A
<b>11. Election Details:</b> If the NLRB conducts and election in this matter, state your position with respect to any such election:			<b>11a. Election Type:</b> <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
<b>11b. Election Date(s):</b> May 24, 2021		<b>11c. Election Time(s):</b> 7:00 a.m. - 10:00 a.m.	
<b>11d. Election Location(s):</b> Employer's Shop			
<b>12a. Full Name of Petitioner (including local name and number):</b> International Union of Operating Engineers, Local 150, AFL-CIO		<b>12b. Address (street and number, city, State and ZIP code):</b> 6200 Joliet Road Countryside, IL 60525	
<b>12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state):</b> International Union of Operating Engineers			
<b>12d. Tel. No.</b> 708/482-8800	<b>12e. Cell No.</b> N/A	<b>12f. Fax No.</b> 708/588-1623	<b>12g. E-Mail Address</b> N/A
<b>13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.</b>			
<b>13a. Name and Title:</b> Dale D. Pierson, General Counsel		<b>13b. Address (street and number, city, State and ZIP code):</b> Local 150 Legal Department 6140 Joliet Road, Countryside, IL 60525	
<b>13c. Tel. No.</b> 708/579-6663	<b>13d. Cell No.</b> N/A	<b>13e. Fax No.</b> 708/588-1647	<b>13f. E-Mail Address</b> dpierson@local150.org
<b>I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.</b>			
<b>Name (Print)</b> Robert A. Paszta		<b>Signature</b> /s/ Robert A. Paszta	<b>Title</b> Attorney
			<b>Date</b> 05/03/21

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



## **RIDER**

### **5b. Description of Unit Involved:**

#### **Included:**

All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed by or assigned from the Employer's facilities currently located in Bridgeview, Illinois; LaSalle, Illinois; and Griffith, Indiana.

#### **Excluded:**

Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (312)353-7570  
Fax: (312)886-1341



Download  
NLRB  
Mobile App

**URGENT**

May 4, 2021

International Union of Operating Engineers,  
Local 150, AFL-CIO  
6200 Joliet Rd  
Countryside, IL 60525-3992

Re: Imperial Crane Services, Inc.  
Case 13-RC-276523

Dear Sir or Madam:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney Christina B. Hill whose telephone number is (312)353-7599 and whose e-mail address is [christina.hill@nlrb.gov](mailto:christina.hill@nlrb.gov). The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Examiner Kate Gianopulos whose telephone number is (312)353-4162. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Showing of Interest:** If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Friday, May 21, 2021 at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604, or Via ZOOM videoconference** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Posting and Distribution of Notice:** The Employer must post the enclosed Notice of Petition for Election by **May 11, 2021** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

**Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Central Time on May 13, 2021**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

**Required Responsive Statement of Position (RSOP):** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on May 18, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*Failure to Supply Information:* Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Voter List:** If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

**Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Daniel N. Nelson  
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc: Dale D. Pierson, Esq., General Counsel  
International Union of Operating  
Engineers, Local 150, AFL-CIO  
6140 Joliet Rd  
Legal Department  
Countryside, IL 60525-3956  
[dpierson@local150.org](mailto:dpierson@local150.org)

Robert A. Paszta Esq., Associate General  
Counsel  
International Union of Operating  
Engineers, Local 150, AFL-CIO  
6140 Joliet Road  
Countryside, IL 60525  
[rpaszta@local150.org](mailto:rpaszta@local150.org)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers, Local 150, AFL-CIO has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 13-RC-276523 seeking an election to become certified as the representative of the employees of IMPERIAL CRANE SERVICES, INC. in the unit set forth below:

**Included:** All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed by or assigned from the Employer's facilities currently located in Bridgeview, Illinois; LaSalle, Illinois; and Griffith, Indiana. **Excluded:** Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (312)353-7570.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board







**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**



<b>IMPERIAL CRANE SERVICES, INC.</b>  <b>Employer</b>  <b>and</b> <b>International Union of Operating Engineers, Local 150, AFL-CIO</b>  <b>Petitioner</b>	<b>Case 13-RC-276523</b>
---	--------------------------

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at **9:00 AM on Friday, May 21, 2021** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at , 219 S Dearborn Street, Suite 808, Chicago, IL 60604, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, IMPERIAL CRANE SERVICES, INC. must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on **May 13, 2021**. Following timely filing and service of a Statement of Position by IMPERIAL CRANE SERVICES, INC., the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **May 18, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: May 4, 2021

**/s/ Daniel N Nelson**

---

Daniel N. Nelson  
Acting Regional Director  
National Labor Relations Board  
Region 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

**Note:** *Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-276523

Date Filed  
May 3, 2021

**INSTRUCTIONS:** *Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.*

**Note:** *Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.*

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address ( <i>Street and number, city, state, and ZIP code</i> )		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other ( <i>specify length</i> )	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address ( <i>Street and number, city, state, and ZIP code</i> )			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER  
13-RC-276523

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES )

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date:

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-276523

Date Filed  
May 3, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**  
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (312)353-7570  
Fax: (312)886-1341



Download  
NLRB  
Mobile App

May 4, 2021

**URGENT**

Larry Eckardt, VP Of Operations  
9735 Industrial Drive  
Bridgeview, IL 60455  
[gleckardt@imperialcrane.com](mailto:gleckardt@imperialcrane.com)

Re: Imperial Crane Services, Inc.  
Case 13-RC-276523

Dear Mr. Eckardt:

Enclosed is a copy of a petition that International Union of Operating Engineers, Local 150, AFL-CIO filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Attorney Christina B. Hill whose telephone number is (312)353-7599 and whose e-mail address is [christina.hill@nlrb.gov](mailto:christina.hill@nlrb.gov). The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Examiner Kate Gianopulos whose telephone number is (312)353-4162. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by **May 11, 2021** in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the

Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Central Time on May 13, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Central Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing,

from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Responsive Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Central Time on May 18, 2021**.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **9:00 AM on Friday, May 21, 2021 at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604, or via ZOOM videoconference** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);



- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native



format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Daniel N. Nelson  
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)

cc:

Harry J. Secaras Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
155 N Wacker Dr Ste 4300  
Chicago, IL 60606-1731  
[harry.secaras@ogletree.com](mailto:harry.secaras@ogletree.com)

Norma Manjarrez Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
155 N Wacker Dr Ste 4300  
Chicago, IL 60606-1731  
[norma.manjarrez@ogletree.com](mailto:norma.manjarrez@ogletree.com)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers, Local 150, AFL-CIO has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 13-RC-276523 seeking an election to become certified as the representative of the employees of IMPERIAL CRANE SERVICES, INC. in the unit set forth below:

**Included:** All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, CDL Drivers, Non-CDL Drivers, and Yardmen employed by or assigned from the Employer's facilities currently located in Bridgeview, Illinois; LaSalle, Illinois; and Griffith, Indiana. **Excluded:** Office and clerical employees, professional employees, sales representatives, guards and supervisors as defined under the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (312)353-7570.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board





**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**



<b>IMPERIAL CRANE SERVICES, INC.</b>  <b>Employer</b>  <b>and</b> <b>International Union of Operating Engineers, Local 150, AFL-CIO</b>  <b>Petitioner</b>	<b>Case 13-RC-276523</b>
---	--------------------------

**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 9:00 AM on **Friday, May 21, 2021** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at, 219 S Dearborn Street, Suite 808, Chicago, IL 60604 or via ZOOM videoconference a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, IMPERIAL CRANE SERVICES, INC. must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Central time on **May 13, 2021**. Following timely filing and service of a Statement of Position by IMPERIAL CRANE SERVICES, INC., the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Central on **May 18, 2021**.

**Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden.** Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Central on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: May 4, 2021

**/s/ Daniel N Nelson**

---

Daniel N. Nelson  
Acting Regional Director  
National Labor Relations Board  
Region 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604-2027

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.



**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.

13-RC-276523

Date Filed

May 3, 2021

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER  
13-RC-276523

## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES )

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date:

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
13-RC-276523

Date Filed  
May 3, 2021

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**  
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION THIRTEEN**

IMPERIAL CRANE SERVICES, INC.

and

Case 13-RC-276523

IUOE LOCAL 150

**CCA’S PETITION TO REVOKE SUBPOENA NO. B-1-1CHDKDZ**

Third Party Chicagoland Crane Association (“CCA”), pursuant to § 102.66(f) of the National Labor Relations Board Rules and Regulations, respectfully petitions to revoke the subpoena *duces tecum* numbered B-1-1CHDKDZ, requested by Counsel for the Petitioner and received by CCA on May 11, 2021. A copy of the subpoena *duces tecum* is attached as Exhibit A.

**TIMELINESS**

Pursuant to Section 102.66(f), the Company is entitled to five (5) days within which to petition for revocation of the Board’s subpoena. Section 102.2(a), provides that when a time period prescribed in the Board’s Rules is less than seven days, weekends and federal holidays are excluded from the computation. CCA was served with the subpoena *duces tecum* on Tuesday, May 11, 2021. Accordingly, the last day for timely submission of this petition is close of business on May 18, 2021. CCA served this petition on the Regional Director via the Board’s E-Filing system and by mailing a copy of the same via First Class U.S. Mail on Tuesday, May 18, 2021.

**BACKGROUND**

CCA is an association of crane rental companies that provide such services in the greater Chicagoland area. The CCA delegates its members bargaining rights to the Mid-America Regional Bargaining Association (“MARBA”). MARBA is a multi-employer association focused on collective bargaining in the commercial construction industry. MARBA is a party to the Illinois



Building Agreement (the “Building Agreement”) with the Petitioner. The Building Agreement is an 8(f) agreement entered into by and between MARBA for and on behalf of the individual employer members of its member associations and the Union.

## **GROUND FOR REVOCATION**

### **GENERAL OBJECTIONS**

CCA asserts the below general objections which are also incorporated into the specific objections set forth herein:

1. Confidential, Proprietary and Privileged Information: Each paragraph of the subpoena *duces tecum* should be revoked insofar as it seeks confidential, private or proprietary information and to the extent it seeks documents and/or information constituting attorney-client privileged communications between CCA and its counsel or seeks documents and/or information that is protected by the work product doctrine.

2. Overbroad: The Board must revoke portions of the subpoena that are overbroad. *See, e.g., CNN America, Inc.*, 353 NLRB 891 (2009) (“Subpoenas seeking material that does not relate to the issues involved in the proceeding are subject to revocation by the Board on proper application.”); *Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 881 (1999) (A party is “not entitled to a subpoena from the Board” in support of “a mere ‘fishing expedition.’”).

3. Non-Specific and Vague: Each item of the subpoena *duces tecum* should be revoked to the extent it does not describe the material requested with the specificity and particularity required by 29 C.F.R. § 102.66(c) and § 11776 of the Board’s Case Handling Manual.

4. Information that is not related to the matters in question in this proceeding: Each item of the subpoena *duces tecum* should be revoked insofar as it seeks information that is not

related to the petition to convert the multi-employer 8(f) agreement to a single-employer 9(a) agreement or the expansion of the geographic and occupational scope of the unit contained in the 8(f) agreement.

5. Right to Amend and/or Supplement Responses: CCA's responses to the above-referenced subpoena *duces tecum* are based on the information presently available to CCA, and are made without prejudice to its right to use subsequently discovered or developed information in any continuing investigation and or proceeding. CCA reserves the right to amend or supplement its responses accordingly.

6. No Waiver of Objections: CCA is attempting to comply in good faith with the subpoena where it reasonably can do so. The fact that CCA responds to part or all of any document request is not intended to be, and shall not be, construed as a waiver by CCA of any part of any objection to any document request.

### SPECIFIC OBJECTIONS

More specifically, but without limitation and reiterating all of the above grounds, CCA objects to each of the requested items in the subpoena *duces tecum* for the following additional reasons:

#### Documents Requested

1. All documents and correspondence related to the Company's delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.

**RESPONSE:** CCA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks "all documents and correspondence" related to the delegation of bargaining rights to MARBA within the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, CCA will provide such information.

2. All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.

**RESPONSE:** CCA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks “all documents and correspondence” related to the delegation of bargaining rights to the CCA within the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, CCA will provide such information.

3. All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

**RESPONSE:** CCA objects to this request on the grounds that it is vague and ambiguous as it fails to define “bargaining history.” CCA further objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks “all documents and correspondence” between Imperial and CCA regarding the bargaining history of the Building Agreement within the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, CCA will provide such information.

4. All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.

**RESPONSE:** CCA objects to this request on the grounds that it is vague and ambiguous as it fails to define “bargaining history.” CCA further objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks all documents related to the “bargaining history” of the Building Agreement between MARBA and the Petitioner for the past 50 years. As phrased, this request encompasses volumes of records including, among other things, bargaining notes, attorney work product, correspondence protected by attorney-client privilege, proposals,

and tentative agreements all of which are unrelated to the issues in this case and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. CCA objects for the additional reason that it seeks documents that are equally accessible to the Petitioner. The subpoena, therefore, should be revoked or at a minimum, the exact nature of the documentation sought by the Petitioner in these records as they relate to the issues under consideration should be more precisely identified.

WHEREFORE, Third Party Chicagoland Crane Association respectfully requests revocation of the Board subpoena *duces tecum* numbered B-1-1CHDKDZ for the reasons set forth above.

Dated: May 18, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Norma Manjarrez  
Norma Manjarrez  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
155 North Wacker Drive, Suite 4300  
Chicago, IL 60606-1731  
Telephone: (312) 558-1220  
Facsimile: (312) 807-3619  
*norma.manjarrez@ogletreedekins.com*

One of the Attorneys for  
Chicagoland Crane Association

**CERTIFICATE OF SERVICE**

I certify that on May 18, 2021, a copy of the foregoing *CCA's Petition to Revoke Subpoena No. B-1-1CHDKDZ* was Electronically Filed as a .pdf document via the NLRB's e-filing system and transmitted via regular U.S. Mail to:

Daniel Nelson, Acting Regional Director  
NATIONAL LABOR RELATIONS BOARD, REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604

By: /s/ Norma Manjarrez  
One of the Attorneys for  
Chicagoland Crane Association

47160870.1

# EXHIBIT A

## SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARDTo Keeper of Records, Chicagoland Crane Association (CCA)360 East Randolph Street, #301, Chicago, Illinois 60601As requested by Robert A. Paszta, Local 150 Legal Departmentwhose address is 6140 Joliet Road  
(Street)Countryside  
(City)IL  
(State)60525  
(ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at NLRB, Region 13, 219 South Dearborn Street, Suite 808 (via Zoom)in the City of Chicago, Illinois 60604-2027on Friday, May 21, 2021at 9:00 a.m. or any adjournedor rescheduled date to testify in Imperial Crane Services, Inc.  
13-RC-276523

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-1CHDKDZ

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated: May 10, 2021



*Lauren McFerran*  
Lauren McFerran, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.



## Rider

### Definitions and Instructions

This subpoena is intended to cover all documents that are available to you or subject to your reasonable acquisition, including but not limited to documents in the possession of attorneys, accountants, private investigators, advisers, or other persons directly or indirectly employed by Chicagoland Crane Association (CCA), or anyone else subject to its control. This subpoena does not request documents protected from disclosure by the attorney-client privilege properly identified in a privilege log.

As used in this request, the term "document" or "record" means, without limitation, the following items, whether printed or recorded or reproduced or retained by any other mechanical or electronic process, or written and produced by hand: agreements, communications, correspondence, telegrams, memoranda, facsimile transmissions, voicemails, text messages, instant messages, notes, statistics, letters, pamphlets, newsletters, press releases, bulletins, transcripts, audio recordings, video recordings, summaries or records of telephone conversations, cell phone conversations, summaries or records of personal conversations or interviews, conferences, transcripts or summaries or reports of investigations or negotiations, drafts, letters, internal or inter-office memoranda or correspondence, lists, data contained in computers, telephone systems, scanners, copiers, servers, e-mail, any marginal comments appearing on any documents, and all other writings, figures, or symbols of any kind.

- A. The word "person" or "persons" means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
- B. "The Employer" or "Respondent" or "the Company" means Imperial Crane Services, Inc.
- C. Unless otherwise stated, each item requested in this subpoena covers the period from April 15, 2019, through the present.
- D. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive "or" shall be deemed to include the conjunctive "and" and vice versa; and the words "each," "every," "any," and "all" shall be deemed to include each of the other words.
- E. Any references to the Illinois Building Agreement mean the collective bargaining agreement between the International Union of Operating Engineers, Local 150, AFL-CIO, and the Mid-America Regional Bargaining Association (MARBA) covering the Union's Districts 1-2-3, and/or any predecessor agreements in whatever format.



### **Documents Requested**

All documents and correspondence related to the Company's delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.

All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.

All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.

Case 13-RC-276523

B-1-1CHDKDZ

### RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check method used.)

- ☐ by person
- ☒ by ~~certified mail~~ <sup>return receipt requested</sup> UPS Overnight Delivery
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

May 10, 2021

(Month, day, and year)

(b) (6), (b) (7)(C)

(Name of person making service)

(b) (6), (b) (7)(C)

(Official title, if any)

### CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION THIRTEEN**

IMPERIAL CRANE SERVICES, INC.

and

Case 13-RC-276523

IUOE LOCAL 150

**RESPONDENT’S PETITION TO REVOKE SUBPOENA NO. B-1-1CHDJN1**

Respondent Imperial Crane Services, Inc. (“Imperial”), pursuant to § 102.66(f) of the National Labor Relations Board Rules and Regulations, respectfully petitions to revoke the subpoena *duces tecum* numbered B-1-1CHDJN1, requested by Counsel for the Petitioner and received by Imperial on May 11, 2021. A copy of the subpoena *duces tecum* is attached as Exhibit A.

**TIMELINESS**

Pursuant to Section 102.66(f), the Company is entitled to five (5) days within which to petition for revocation of the Board’s subpoena. Section 102.2(a), provides that when a time period prescribed in the Board’s Rules is less than seven days, weekends and federal holidays are excluded from the computation. Imperial was served with the subpoena *duces tecum* on Tuesday, May 11, 2021. Accordingly, the last day for timely submission of this petition is close of business on May 18, 2021. Imperial served this petition on the Regional Director via the Board’s E-Filing system and by mailing a copy of the same via First Class U.S. Mail on Tuesday, May 18, 2021.

## **BACKGROUND**

Imperial is signatory to the Mid-America Regional Bargaining Association (MARBA) Illinois Building Agreement (“Building Agreement”) through delegation of its bargaining rights to the Chicagoland Crane Association (“CCA”), an association of crane rental companies that provide such services in the greater Chicagoland area, and which delegates its members bargaining rights to MARBA. The Building Agreement is an 8(f) agreement entered into by and between MARBA for and on behalf of the individual employer members of its member associations and the Union.

The Petitioner seeks to convert its 8(f) relationship with the Company to a 9(a) relationship through the underlying petition which seeks a single-employer bargaining unit that expands both the geographical and occupational jurisdiction contained in the 8(f) agreement. The Company contends that the unit sought by the Petitioner is not appropriate. The only appropriate unit containing the employees that the Petitioner seeks to represent is a multi-employer bargaining unit that is consistent with the classifications and geographic scope contained in the Building Agreement. Alternatively, a single-employer unit is only appropriate insofar as it is consistent with the long-standing unit the Union has represented historically in multi-employer bargaining (i.e., one that is consistent in geographic and jurisdictional scope). Accordingly, subpoena *duces tecum* numbered B-1-1CHDJN1 should be revoked as set forth below.

## **GROUND FOR REVOCATION**

### **GENERAL OBJECTIONS**

Imperial asserts the below general objections which are also incorporated into the specific objections set forth herein:



1. Confidential, Proprietary and Privileged Information: Each paragraph of the subpoena *duces tecum* should be revoked insofar as it seeks confidential, private or proprietary information and to the extent it seeks documents and/or information constituting attorney-client privileged communications between Imperial and its counsel or seeks documents and/or information that is protected by the work product doctrine.

2. Overbroad: The Board must revoke portions of the subpoena that are overbroad. *See, e.g., CNN America, Inc.*, 353 NLRB 891 (2009) (“Subpoenas seeking material that does not relate to the issues involved in the proceeding are subject to revocation by the Board on proper application.”); *Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 881 (1999) (A party is “not entitled to a subpoena from the Board” in support of “a mere ‘fishing expedition.’”).

3. Non-Specific and Vague: Each item of the subpoena *duces tecum* should be revoked to the extent it does not describe the material requested with the specificity and particularity required by 29 C.F.R. § 102.66(f) and § 11776 of the Board’s Case Handling Manual.

4. Information that is not related to the matters in question in this proceeding: Each item of the subpoena *duces tecum* should be revoked insofar as it seeks information that is not related to the petition to convert the multi-employer 8(f) agreement to a single-employer 9(a) agreement or the expansion of the geographic and occupational scope of the unit contained in the 8(f) agreement.

5. Right to Amend and/or Supplement Responses: Imperial’s responses to the above-referenced subpoena *duces tecum* are based on the information presently available to Imperial, and are made without prejudice to its right to use subsequently discovered or developed information

in any continuing investigation and or proceeding. Imperial reserves the right to amend or supplement its responses accordingly.

6. No Waiver of Objections: Imperial is attempting to comply in good faith with the subpoena where it reasonably can do so. The fact that Imperial responds to part or all of any document request is not intended to be, and shall not be, construed as a waiver by Imperial of any part of any objection to any document request.

### SPECIFIC OBJECTIONS

More specifically, but without limitation and reiterating all of the above grounds, Imperial objects to each of the requested items in the subpoena *duces tecum* for the following additional reasons:

#### Documents Requested

1. Location of all Company facilities.

**RESPONSE:** Imperial objects to this request on the grounds that it seeks testimony rather than document(s) and further objects to the extent it seeks a document not already in existence.

2. A list of all Company job locations for the last two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent that it fails to define the term “job” and further objects to the extent it seeks a document not already in existence.

3. Lists of functions performed at each Company facility and job location.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad to the extent it seeks information regarding employees outside of the petitioned-for unit, vague and ambiguous to the extent it fails to define “functions” or “job,” and oppressive and unduly burdensome to the extent that it seeks the production of documents relating to each “job

location” within the last two years. Imperial further objects to this request as unduly burdensome to the extent it seeks a document not already in existence. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

4. Job descriptions for the Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen at each location.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “parts runners” or “yardmen.” To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

5. Names of employees, identifying hire date, title/classification, length of service with the Company, promotion dates, length(s) of service at each site and transfer dates, if applicable, and licenses and certifications held for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “parts runners” or “yardmen,” and overly broad to the extent it seeks information that is not relevant to the

petition or any of the issues raised in Imperial's statement of position or the response thereto and as unduly burdensome to the extent it seeks a document not already in existence.

6. Copies of any and all advertisements for employment as Parts Runners/Drivers at the Company for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "advertisements" or "parts runners/drivers." Imperial further objects to this request on the grounds that it is overly broad and unduly burdensome to satisfy as Imperial cannot possibly be expected to locate and produce each and every document relating to "any and all advertisements" for employment as a "parts runner/driver" position with Imperial. To the extent responsive, relevant, non-privileged information exists as to employees classified as "facilities delivery," Imperial will provide such information for a reasonable time period.

7. Payroll records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past four months.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "payroll records," "parts runners," or "yardmen." Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Additionally, as phrased, this request encompasses, among other things, tax forms, check stubs, benefits deductions, timecards and time sheets and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. Imperial objects for the additional reason that it seeks documents that are equally accessible to the Petitioner. To the extent responsive, relevant,



non-privileged information exists, Imperial will provide such information for a reasonable time period.

8. Performance evaluations for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “performance evaluations,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

9. Pay rates, bonus compensation, any incentive pay records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “pay rates,” “bonus compensation,” “incentive pay records,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it

seeks documents that are equally accessible to the Petitioner. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

10. Health insurance benefit descriptions for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “health insurance benefit descriptions” or “parts runners/drivers,” and is unduly burdensome to the extent it seeks a document not already in existence and to the extent it seeks documents that are equally accessible to the Petitioner. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

11. Work schedules for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “work schedules,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it seeks documents that are equally accessible

to the Petitioner. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

12. Vacation and other PTO records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “vacation,” “PTO records,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists as to Parts Runners, Imperial will provide such information for a reasonable time period.

13. Records showing daily arrival times and quit times for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “arrival times,” “quit times,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit.

14. Records indicating daily job assignments for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “job assignments,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it seeks documents that are equally accessible to the Petitioner.

15. Personnel files for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “personnel files,” “parts runners,” or “yardmen,” and overly broad and unduly burdensome in scope. This request does not limit the scope of the request; the request seeks the production of the entirety of an employee’s personnel file. Such personnel documents however contain a multitude of information relative to the particular individual, including private and confidential employee information, information which has no bearing on the issues presented in this petition. Imperial further objects to this request as disproportional to the needs of the case as the

expense of producing the documents sought outweighs the likely benefit and to the extent it is a fishing expedition without justification or foundation.

16. Copies of all practical examinations performed by Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen in the last two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “practical examination,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it is a fishing expedition without justification or foundation.

17. All documents, including emails and other correspondence, regarding any and all practical examinations for the last two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “practical examination,” “parts runners,” or “yardmen,” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it is a fishing expedition without justification or foundation.

18. Disciplinary records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial further objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “disciplinary records,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it is a fishing expedition without justification or foundation. Imperial further objects to this request to the extent it seeks documents that are equally accessible to the Petitioner. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

19. Any job studies or analysis for the classifications of Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and not relevant to the extent it seeks documents relating to classifications outside of the petitioned-for unit (e.g., riggers) and to the extent it seeks documents relating to classifications that the Company does not employ (e.g., yardmen). Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “job studies,” “analysis,” “parts runners,” or “yardmen,” and is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and to the extent it is a fishing expedition without justification

or foundation. Imperial further objects to this request to the extent it seeks documents that are equally accessible to the Petitioner.

20. List of all equipment owned, rented, leased, or otherwise utilized by the Company for the last two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “equipment” or “utilized,” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit and because Imperial cannot possibly be expected to know each and every piece of equipment “otherwise utilized” by the Company within the last two years and to the extent it is a fishing expedition without justification or foundation.

21. Records indicating the daily operation of each piece of equipment including the individual who operated the equipment and the specific piece of equipment for the last two years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “equipment” or “operation,” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit, seeks information regarding employees outside of the petitioned-for unit and because Imperial cannot possibly be expected to know each and every piece of equipment “operated” by an employ for the last two years and to the extent it is a fishing expedition without justification or foundation.

22. Copies of all Company budgets.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “company budgets.” Imperial further objects on relevancy grounds as the scope of this request blatantly exceeds the scope of the hearing as it demands confidential information including confidential business or propriety information that is not

relevant to the petition or any of the issues raised in Imperial's statement of position or the response thereto and to the extent it is a fishing expedition without justification or foundation.

23. Documents indicating which budget covers any costs associated with each of the Company's employees.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "budgets" or "costs." Imperial further objects on relevancy grounds as the scope of this request blatantly exceeds the scope of the hearing as it demands confidential information including confidential business or propriety information that is not relevant to the petition or any of the issues raised in Imperial's statement of position or the response thereto and to the extent it is a fishing expedition without justification or foundation.

24. A list of all employment benefits provided to each of the Company's employees.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "employee benefits," as unduly burdensome to the extent it seeks a document not already in existence and to the extent it seeks documents that are equally accessible to the Petitioner. Imperial objects particularly insofar as this request could be read to require confidential information related to its employees. Imperial further objects to the extent it seeks information regarding employees outside of the petitioned-for unit and to the extent it is a fishing expedition without justification or foundation.

25. Supervisory hierarchy flowcharts/spreadsheets.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "supervisory," as unduly burdensome to the extent it seeks a document not already in existence, to the extent it seeks information regarding employees



outside of the petitioned-for unit and to the extent it is a fishing expedition without justification or foundation.

26. Managerial hierarchy flowcharts/spreadsheet.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “managerial,” is unduly burdensome to the extent it seeks a document not already in existence, to the extent it seeks information regarding employees outside of the petitioned-for unit and to the extent it is a fishing expedition without justification or foundation.

27. Hiring procedures.

**RESPONSE:** Imperial objects to this request on the grounds that it seeks testimony rather than document(s) and further objects on the grounds that it is vague and ambiguous to the extent it fails to define “hiring procedures,” is unduly burdensome to the extent it seeks a document not already in existence and to the extent it seeks information regarding employees outside of the petitioned-for unit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

28. Disciplinary policies, procedures, and hierarchy.

**RESPONSE:** Imperial objects to this request on the grounds that it seeks testimony rather than document(s) and further objects on the grounds that it is vague and ambiguous to the extent it fails to define “disciplinary policies,” “procedures,” or “hierarchy,” is unduly burdensome to the extent it seeks a document not already in existence and to the extent it seeks information regarding employees outside of the petitioned-for unit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

29. Employee handbooks and policy manuals.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “policy manuals,” is unduly burdensome to the extent it seeks information regarding employees outside of the petitioned-for unit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

30. Labor relations policy manuals.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “labor relations” or “policy manuals,” is unduly burdensome to the extent it seeks information regarding employees outside of the petitioned-for unit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

31. Morning safety meeting/morning employee meeting topic sheets, agendas, sign-in sheets, and documents identifying who conducted the meetings for the last 12 months.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “morning safety meeting,” “morning meeting,” or “topic sheets,” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit, seeks information regarding employees outside of the petitioned-for unit and to the extent it is a fishing expedition without justification or foundation.

32. All documents and correspondence related to the Company’s delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks all correspondence related to the delegation of

bargaining rights to MARBA within the past 50 years. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

33. All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks all correspondence related to the delegation of bargaining rights to the CCA within the past 50 years. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

34. All documents and correspondence between the Company and the Mid-America Regional Bargaining Association (MARBA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “bargaining history,” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit, and to the extent it is a fishing expedition without justification or foundation. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

35. All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define “bargaining history” is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit, and to the extent it is a fishing expedition without justification or foundation. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information.

36. All documents identifying the employees that the employer believes should be included in a "multi-employer bargaining unit."

**RESPONSE:** Imperial objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks "all documents identifying" employees in the multi-employer bargaining unit. To the extent responsive, relevant, non-privileged information exists, Imperial will provide such information for a reasonable time period.

37. All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.

**RESPONSE:** Imperial objects to this request on the grounds that it is vague and ambiguous to the extent it fails to define "bargaining history." is overly broad and unduly burdensome to the extent it is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit, and because Imperial cannot possibly be expected know each and every document "related to the bargaining history" between MARBA and the Petitioner of the Building Agreement for the past 50 years and to the extent it is a fishing expedition without justification or foundation. As phrased, this request encompasses volumes of records including, among other things, bargaining notes, attorney work product, correspondence protected by attorney-client privilege, proposals, and tentative agreements all of which are unrelated to the issues in this case and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. Imperial objects for the additional reason that it seeks documents that are equally accessible to the Petitioner. The subpoena, therefore, should be revoked or at a minimum, the exact nature of the documentation sought by the Petitioner in these records as they relate to the issues under consideration should be more precisely identified.

38. Any and all documents that the Company intends on introduce during the hearing in support of the Company's positions set forth in its Statement of Position.

**RESPONSE:** Imperial objects to this request on the grounds that it is premature and unduly burdensome to satisfy at this time. Imperial does not know at this stage what documents it will or may use at the hearing.

WHEREFORE, Respondent Imperial Crane Services, Inc., respectfully requests revocation of the Board subpoena *duces tecum* numbered B-1-1CHDJN1 for the reasons set forth above. Should any portion of the subpoena be enforced, Imperial requests that this petition and any disposition thereof be made part of the official record in this matter.

Dated: May 18, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Norma Manjarrez  
Norma Manjarrez  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
155 North Wacker Drive, Suite 4300  
Chicago, IL 60606-1731  
Telephone: (312) 558-1220  
Facsimile: (312) 807-3619  
*norma.manjarrez@ogletreedeakins.com*

One of the Attorneys for Respondent  
Imperial Crane Services, Inc.

**CERTIFICATE OF SERVICE**

I certify that on May 18, 2021, a copy of the foregoing ***Respondent's Petition to Revoke Subpoena No. B-1-1CHDJN1*** was Electronically Filed as a .pdf document via the NLRB's e-filing system and transmitted via regular U.S. Mail to:

Daniel Nelson, Acting Regional Director  
NATIONAL LABOR RELATIONS BOARD, REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604

By: /s/ Norma Manjarrez  
One of the Attorneys for Respondent  
Imperial Crane Services, Inc.

# EXHIBIT A



**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**To Keeper of Records, Imperial Crane Services, Inc.7500 Imperial Drive, Bridgeview, Illinois 60455As requested by Robert A. Paszta, Local 150 Legal Departmentwhose address is 6140 Joliet Road Countryside IL 60525  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer  
of the National Labor Relations Boardat NLRB, Region 13, 219 South Dearborn Street, Suite 808 (via Zoom)in the City of Chicago, Illinois 60604-2027on Friday, May 21, 2021 at 9:00 a.m. or any adjournedImperial Crane Services, Inc.  
or rescheduled date to testify in 13-RC-276523

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

**SEE ATTACHMENT**

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**B-1-1CHDJN1**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated: May 10, 2021



 A handwritten signature in cursive script that reads "Lauren McFerran".
   
Lauren McFerran, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

Case 13-RC-276523

B-1-1CHDJN1

RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check method used.)

- ☐ by person
- ☒ by certified mail UPS Overnight Delivery
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

May 10, 2021

(Month, day, and year)

(b) (6), (b) (7)(C)

(Name of person making service)

(b) (6), (b) (7)(C)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

## Rider

### Definitions and Instructions

This subpoena is intended to cover all documents that are available to you or subject to your reasonable acquisition, including but not limited to documents in the possession of attorneys, accountants, private investigators, advisers, or other persons directly or indirectly employed by Imperial Crane Services, Inc., or anyone else subject to its control. This subpoena does not request documents protected from disclosure by the attorney-client privilege properly identified in a privilege log.

As used in this request, the term “document” or “record” means, without limitation, the following items, whether printed or recorded or reproduced or retained by any other mechanical or electronic process, or written and produced by hand: agreements, communications, correspondence, telegrams, memoranda, facsimile transmissions, voicemails, text messages, instant messages, notes, statistics, letters, pamphlets, newsletters, press releases, bulletins, transcripts, audio recordings, video recordings, summaries or records of telephone conversations, cell phone conversations, summaries or records of personal conversations or interviews, conferences, transcripts or summaries or reports of investigations or negotiations, drafts, letters, internal or inter-office memoranda or correspondence, lists, data contained in computers, telephone systems, scanners, copiers, servers, e-mail, any marginal comments appearing on any documents, and all other writings, figures, or symbols of any kind.

- A. The word “person” or “persons” means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
- B. “The Employer” or “Respondent” or “the Company” means Imperial Crane Services, Inc.
- C. Unless otherwise stated, each item requested in this subpoena covers the period from April 15, 2019, through the present.
- D. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive “or” shall be deemed to include the conjunctive “and” and vice versa; and the words “each,” “every,” “any,” and “all” shall be deemed to include each of the other words.
- E. Any references to the Illinois Building Agreement mean the collective bargaining agreement between the International Union of Operating Engineers, Local 150, AFL-CIO, and the Mid-America Regional Bargaining Association (MARBA) covering the Union’s Districts 1-2-3, and/or any predecessor agreements in whatever format.



### **Documents Requested**

1. Location of all Company facilities.
2. A list of all Company job locations for the last two years.
3. Lists of functions performed at each Company facility and job location.
4. Job descriptions for the Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen at each location.
5. Names of employees, identifying hire date, title/classification, length of service with the Company, promotion dates, length(s) of service at each site and transfer dates, if applicable, and licenses and certifications held for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
6. Copies of any and all advertisements for employment as Parts Runners/Drivers at the Company for the past two years.
7. Payroll records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past four months.
8. Performance evaluations for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
9. Pay rates, bonus compensation, any incentive pay records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.
10. Health insurance benefit descriptions for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.
11. Work schedules for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
12. Vacation and other PTO records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
13. Records showing daily arrival times and quit times for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.

14. Records indicating daily job assignments for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
15. Personnel files for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen.
16. Copies of all practical examinations performed by Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen in the last two years.
17. All documents, including emails and other correspondence, regarding any and all practical examinations for the last two years.
18. Disciplinary records for all Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
19. Any job studies or analysis for the classifications of Craft Foreman, Operators, Oilers, Technicians, Riggers, Field Mechanics, Shop Mechanics, Apprentices, Parts Runners/Drivers, and Yardmen for the past two years.
20. List of all equipment owned, rented, leased, or otherwise utilized by the Company for the last two years.
21. Records indicating the daily operation of each piece of equipment including the individual who operated the equipment and the specific piece of equipment for the last two years.
22. Copies of all Company budgets.
23. Documents indicating which budget covers any costs associated with each of the Company's employees.
24. A list of all employment benefits provided to each of the Company's employees.
25. Supervisory hierarchy flowcharts/spreadsheets.
26. Managerial hierarchy flowcharts/spreadsheet.
27. Hiring procedures.
28. Disciplinary policies, procedures, and hierarchy.
29. Employee handbooks and policy manuals.
30. Labor relations policy manuals.
31. Morning safety meeting/morning employee meeting topic sheets, agendas, sign-in sheets, and documents identifying who conducted the meetings for the last 12 months.

32. All documents and correspondence related to the Company's delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.
33. All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.
34. All documents and correspondence between the Company and the Mid-America Regional Bargaining Association (MARBA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.
35. All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.
36. All documents identifying the employees that the employer believes should be included in a "multi-employer bargaining unit."
37. All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.
38. Any and all documents that the Company intends to introduce during the hearing in support of the Company's positions set forth in its Statement of Position.

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION THIRTEEN**

IMPERIAL CRANE SERVICES, INC.

and

Case 13-RC-276523

IUOE LOCAL 150

**MARBA’S PETITION TO REVOKE SUBPOENA NO. B-1-1CHDK99**

Third Party Mid-America Regional Bargaining Association (“MARBA”), pursuant to § 102.66(f) of the National Labor Relations Board Rules and Regulations, respectfully petitions to revoke the subpoena *duces tecum* numbered B-1-1CHDK99, requested by Counsel for the Petitioner and received by MARBA on May 11, 2021. A copy of the subpoena *duces tecum* is attached as Exhibit A.

**TIMELINESS**

Pursuant to Section 102.66(f), the Company is entitled to five (5) days within which to petition for revocation of the Board’s subpoena. Section 102.2(a), provides that when a time period prescribed in the Board’s Rules is less than seven days, weekends and federal holidays are excluded from the computation. MARBA was served with the subpoena *duces tecum* on Tuesday, May 11, 2021. Accordingly, the last day for timely submission of this petition is close of business on May 18, 2021. MARBA served this petition on the Regional Director via the Board’s E-Filing system and by mailing a copy of the same via First Class U.S. Mail on Tuesday, May 18, 2021.

**BACKGROUND**

MARBA is a multi-employer association focused on collective bargaining in the commercial construction industry. MARBA is a party to the Illinois Building Agreement (the “Building Agreement”) with the Petitioner. The Building Agreement is an 8(f) agreement entered



into by and between MARBA for and on behalf of the individual employer members of its member associations and the Union. One of the member associations is the Chicagoland Crane Association (“CCA”), an association of crane rental companies that provide such services in the greater Chicagoland area. The CCA delegates its members bargaining rights to MARBA. As set forth below, MARBA states that subpoena *duces tecum* numbered B-1-1CHDK99 should be revoked.

## **GROUND FOR REVOCATION**

### **GENERAL OBJECTIONS**

MARBA asserts the below general objections which are also incorporated into the specific objections set forth herein:

1. Confidential, Proprietary and Privileged Information: Each paragraph of the subpoena *duces tecum* should be revoked insofar as it seeks confidential, private or proprietary information and to the extent it seeks documents and/or information constituting attorney-client privileged communications between MARBA and its counsel or seeks documents and/or information that is protected by the work product doctrine.

2. Overbroad: The Board must revoke portions of the subpoena that are overbroad. *See, e.g., CNN America, Inc.*, 353 NLRB 891 (2009) (“Subpoenas seeking material that does not relate to the issues involved in the proceeding are subject to revocation by the Board on proper application.”); *Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 881 (1999) (A party is “not entitled to a subpoena from the Board” in support of “a mere ‘fishing expedition.’”).

3. Non-Specific and Vague: Each item of the subpoena *duces tecum* should be revoked to the extent it does not describe the material requested with the specificity and particularity required by 29 C.F.R. § 102.66(f) and § 11776 of the Board’s Case Handling Manual.

4. Information that is not related to the matters in question in this proceeding: Each item of the subpoena *duces tecum* should be revoked insofar as it seeks information that is not related to the petition to convert the multi-employer 8(f) agreement to a single-employer 9(a) agreement or the expansion of the geographic and occupational scope of the unit contained in the 8(f) agreement.

5. Right to Amend and/or Supplement Responses: MARBA's responses to the above-referenced subpoena *duces tecum* are based on the information presently available to MARBA, and are made without prejudice to its right to use subsequently discovered or developed information in any continuing investigation and or proceeding. MARBA reserves the right to amend or supplement its responses accordingly.

6. No Waiver of Objections: MARBA is attempting to comply in good faith with the subpoena where it reasonably can do so. The fact that MARBA responds to part or all of any document request is not intended to be, and shall not be, construed as a waiver by MARBA of any part of any objection to any document request.

#### SPECIFIC OBJECTIONS

More specifically, but without limitation and reiterating all of the above grounds, MARBA objects to each of the requested items in the subpoena *duces tecum* for the following additional reasons:

#### Documents Requested

1. All documents and correspondence related to the Company's delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.

**RESPONSE:** MARBA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks "all documents and correspondence" related to the delegation of bargaining rights to MARBA within the past 50 years and, as such, is

disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, MARBA will provide such information.

2. All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.

**RESPONSE:** MARBA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks “all documents and correspondence” related to the delegation of bargaining rights to the CCA within the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. MARBA cannot know each and every document and correspondence related to Imperial’s delegation of bargaining rights to the CCA. To the extent responsive, relevant, non-privileged information exists, MARBA will provide such information.

3. All documents and correspondence between the Company and the Mid-America Regional Bargaining Association (MARBA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

**RESPONSE:** MARBA objects to this request on the grounds that it is vague and ambiguous as it fails to define “bargaining history.” MARBA further objects to this request as overly broad and unduly burdensome to the extent it seeks “all documents and correspondence” between MARBA and Imperial regarding the bargaining history of the Building Agreement for the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. To the extent responsive, relevant, non-privileged information exists, MARBA will provide such information.

4. All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.

**RESPONSE:** MARBA objects to this request on the grounds that it is vague and ambiguous as it fails to define “bargaining history.” MARBA further objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks “all documents and correspondence” between Imperial and CCA regarding the bargaining history of the Building Agreement within the past 50 years and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. Without waiving any of its objections, MARBA responds that it has no documents responsive to this request.

5. All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.

**RESPONSE:** MARBA objects to this request on the grounds that it is vague and ambiguous as it fails to define “bargaining history.” MARBA further objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks all documents related to the “bargaining history” of the Building Agreement between MARBA and the Petitioner for the past 50 years. As phrased, this request encompasses volumes of records including, among other things, bargaining notes, attorney work product, correspondence protected by attorney-client privilege, proposals, and tentative agreements all of which are unrelated to the issues in this case and, as such, is disproportional to the needs of the case as the expense of producing the documents sought outweighs the likely benefit. MARBA objects for the additional reason that it seeks documents that are equally accessible to the Petitioner. The subpoena, therefore, should be revoked or at a minimum, the exact nature of

the documentation sought by the Petitioner in these records as they relate to the issues under consideration should be more precisely identified.

WHEREFORE, Third Party Mid-America Regional Bargaining Association respectfully requests revocation of the Board subpoena *duces tecum* numbered B-1-1CHDK99 for the reasons set forth above.

Dated: May 18, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Norma Manjarrez  
Norma Manjarrez  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
155 North Wacker Drive, Suite 4300  
Chicago, IL 60606-1731  
Telephone: (312) 558-1220  
Facsimile: (312) 807-3619  
*norma.manjarrez@ogletreedeakins.com*

One of the Attorneys for  
Mid-America Regional Bargaining Association

### **CERTIFICATE OF SERVICE**

I certify that on May 18, 2021, a copy of the foregoing ***MARBA's Petition to Revoke Subpoena No. B-1-1CHDK99*** was Electronically Filed as a .pdf document via the NLRB's e-filing system and transmitted via regular U.S. Mail to:

Daniel Nelson, Acting Regional Director  
NATIONAL LABOR RELATIONS BOARD, REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604

By: /s/ Norma Manjarrez  
One of the Attorneys for  
Mid-America Regional Bargaining Association

# EXHIBIT A

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**To Keeper of Records, Mid-America Regional Bargaining Association (MARBA)2720 South River Road, Suite 222, Des Plaines, Illinois 60018As requested by Robert A. Paszta, Local 150 Legal Departmentwhose address is 6140 Joliet Road Countryside IL 60525  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer  
of the National Labor Relations Boardat NLRB, Region 13, 219 South Dearborn Street, Suite 808 (via Zoom)in the City of Chicago, Illinois 60604-2027on Friday, May 21, 2021 at 9:00 a.m. or any adjournedor rescheduled date to testify in Imperial Crane Services, Inc.  
13-RC-276523

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

**B-1-1CHDK99**

Issued at

Dated: May 10, 2021



*Lauren McFerran*  
Lauren McFerran, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.



B-1-1CHDK99

RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check method used.)

- ☐ by person
- ☒ by ~~certified mail~~ <sup>UPS Overnight Delivery</sup>
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

May 21, 2021

(Month, day, and year)

(b) (6), (b) (7)(C)

(Name of person making service)

(b) (6), (b) (7)(C)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

## Rider

### Definitions and Instructions

This subpoena is intended to cover all documents that are available to you or subject to your reasonable acquisition, including but not limited to documents in the possession of attorneys, accountants, private investigators, advisers, or other persons directly or indirectly employed by Mid-America Regional Bargaining Association (MARBA), or anyone else subject to its control. This subpoena does not request documents protected from disclosure by the attorney-client privilege properly identified in a privilege log.

As used in this request, the term “document” or “record” means, without limitation, the following items, whether printed or recorded or reproduced or retained by any other mechanical or electronic process, or written and produced by hand: agreements, communications, correspondence, telegrams, memoranda, facsimile transmissions, voicemails, text messages, instant messages, notes, statistics, letters, pamphlets, newsletters, press releases, bulletins, transcripts, audio recordings, video recordings, summaries or records of telephone conversations, cell phone conversations, summaries or records of personal conversations or interviews, conferences, transcripts or summaries or reports of investigations or negotiations, drafts, letters, internal or inter-office memoranda or correspondence, lists, data contained in computers, telephone systems, scanners, copiers, servers, e-mail, any marginal comments appearing on any documents, and all other writings, figures, or symbols of any kind.

- A. The word “person” or “persons” means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
- B. “The Employer” or “Respondent” or “the Company” means Imperial Crane Services, Inc.
- C. Unless otherwise stated, each item requested in this subpoena covers the period from April 15, 2019, through the present.
- D. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive “or” shall be deemed to include the conjunctive “and” and vice versa; and the words “each,” “every,” “any,” and “all” shall be deemed to include each of the other words.
- E. Any references to the Illinois Building Agreement mean the collective bargaining agreement between the International Union of Operating Engineers, Local 150, AFL-CIO, and the Mid-America Regional Bargaining Association (MARBA) covering the Union’s Districts 1-2-3, and/or any predecessor agreements in whatever format.

### **Documents Requested**

1. All documents and correspondence related to the Company's delegation of its bargaining rights to the Mid-America Regional Bargaining Association (MARBA) for the past 50 years.
2. All documents and correspondence related to the Company's delegation of its bargaining rights to the Chicagoland Crane Association (CCA) for the past 50 years.
3. All documents and correspondence between the Company and the Mid-America Regional Bargaining Association (MARBA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.
4. All documents and correspondence between the Company and the Chicagoland Crane Association (CCA) regarding the bargaining history of the Illinois Building Agreement for the past 50 years.
5. All documents related to the bargaining history of the Illinois Building Agreement between the Mid-America Regional Bargaining Association (MARBA) and Local 150 for the past 50 years.

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION THIRTEEN**

IMPERIAL CRANE SERVICES, INC.

and

Case 13-RC-276523

IUOE LOCAL 150

**CCA'S PETITION TO REVOKE SUBPOENA NO. B-1-1CJS3DZ**

Third Party Chicagoland Crane Association ("CCA"), pursuant to § 102.66(f) of the National Labor Relations Board Rules and Regulations, respectfully petitions to revoke the subpoena *duces tecum* numbered B-1-1CJS3DZ, requested by Counsel for the Petitioner and received by CCA on May 14, 2021. A copy of the subpoena *duces tecum* is attached as Exhibit A.

**TIMELINESS**

Pursuant to Section 102.66(f), CCA is entitled to five (5) days within which to petition for revocation of the Board's subpoena. Section 102.2(a), provides that when a time period prescribed in the Board's Rules is less than seven days, weekends and federal holidays are excluded from the computation. CCA was served with the subpoena *duces tecum* on Friday, May 14, 2021. Accordingly, the last day for timely submission of this petition is close of business on May 21, 2021. CCA served this petition on the Regional Director via the Board's E-Filing system and by mailing a copy of the same via First Class U.S. Mail on Thursday, May 20, 2021.

**BACKGROUND**

CCA is an association of crane rental companies that provide such services in the greater Chicagoland area. The CCA delegates its members bargaining rights to the Mid-America Regional Bargaining Association ("MARBA"). MARBA is a multi-employer association focused on collective bargaining in the commercial construction industry. MARBA is a party to the Illinois

Building Agreement (the “Building Agreement”) with the Petitioner. The Building Agreement is an 8(f) agreement entered into by and between MARBA for and on behalf of the individual employer members of its member associations and the Union.

## **GROUND FOR REVOCATION**

### **GENERAL OBJECTIONS**

CCA asserts the below general objections which are also incorporated into the specific objections set forth herein:

1. Confidential, Proprietary and Privileged Information: Each paragraph of the subpoena *duces tecum* should be revoked insofar as it seeks confidential, private or proprietary information and to the extent it seeks documents and/or information constituting attorney-client privileged communications between CCA and its counsel or seeks documents and/or information that is protected by the work product doctrine.

2. Overbroad: The Board must revoke portions of the subpoena that are overbroad. *See, e.g., CNN America, Inc.*, 353 NLRB 891 (2009) (“Subpoenas seeking material that does not relate to the issues involved in the proceeding are subject to revocation by the Board on proper application.”); *Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 881 (1999) (A party is “not entitled to a subpoena from the Board” in support of “a mere ‘fishing expedition.’”).

3. Non-Specific and Vague: Each item of the subpoena *duces tecum* should be revoked to the extent it does not describe the material requested with the specificity and particularity required by 29 C.F.R. § 102.66(c) and § 11776 of the Board’s Case Handling Manual.

4. Information that is not related to the matters in question in this proceeding: Each item of the subpoena *duces tecum* should be revoked insofar as it seeks information that is not

related to the petition to convert the multi-employer 8(f) agreement to a single-employer 9(a) agreement or the expansion of the geographic and occupational scope of the unit contained in the 8(f) agreement.

5. Right to Amend and/or Supplement Responses: CCA's responses to the above-referenced subpoena *duces tecum* are based on the information presently available to CCA, and are made without prejudice to its right to use subsequently discovered or developed information in any continuing investigation and or proceeding. CCA reserves the right to amend or supplement its responses accordingly.

6. No Waiver of Objections: CCA is attempting to comply in good faith with the subpoena where it reasonably can do so. The fact that CCA responds to part or all of any document request is not intended to be, and shall not be, construed as a waiver by CCA of any part of any objection to any document request.

#### SPECIFIC OBJECTIONS

More specifically, but without limitation and reiterating all of the above grounds, CCA objects to each of the requested items in the subpoena *duces tecum* for the following additional reasons:

#### Documents Requested

1. A copy of the current Chicagoland Crane Association (CCA) Bylaws.

**RESPONSE:** CCA objects to this request on the grounds that it is vague and ambiguous as it fails to define the term "bylaws." As defined by Black's Law Dictionary, a "bylaw" is "[a] rule or administrative provision adopted by an organization for its internal governance and its external dealings." BLACK'S LAW DICTIONARY (11th ed. 2019). Accordingly, CCA further objects to this request as overly broad, unduly burdensome, and not relevant to the extent it seeks documents unrelated to the long-established multi-employer bargaining relationship between CCA and the Petitioner and, as such, is disproportional to the needs of the case.

2. Any other documents which govern the scope of CCA's representation of its member associations or member employers.

**RESPONSE:** CCA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks "any other documents" governing CCA's representation of its member associations or member employers which are documents unrelated to the long-established multi-employer bargaining relationship between CCA and the Petitioner and, as such, is disproportional to the needs of the case.

WHEREFORE, Third Party Chicagoland Crane Association respectfully requests revocation of the Board subpoena *duces tecum* numbered B-1-1CJS3DZ for the reasons set forth above.

Dated: May 20, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Norma Manjarrez

Norma Manjarrez  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
155 North Wacker Drive, Suite 4300  
Chicago, IL 60606-1731  
Telephone: (312) 558-1220  
Facsimile: (312) 807-3619  
*norma.manjarrez@ogletreedeakins.com*

One of the Attorneys for  
Chicagoland Crane Association

**CERTIFICATE OF SERVICE**

I certify that on May 20, 2021, a copy of the foregoing *CCA's Petition to Revoke Subpoena No. B-1-1CJS3DZ* was Electronically Filed as a .pdf document via the NLRB's e-filing system and transmitted via regular U.S. Mail to:

Daniel Nelson, Acting Regional Director  
NATIONAL LABOR RELATIONS BOARD, REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604

By: /s/ Norma Manjarrez  
One of the Attorneys for  
Chicagoland Crane Association

47176096.1



# EXHIBIT A

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**To Keeper of Records, Chicagoland Crane Association (CCA)360 East Randolph Street, #301, Chicago, Illinois 60601As requested by Robert A. Paszta, Local 150 Legal Departmentwhose address is 6140 Joliet Road  
(Street)Countryside  
(City)IL  
(State)60525  
(ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer

of the National Labor Relations Board

at NLRB, Region 13, 219 South Dearborn Street, Suite 808 (via Zoom)in the City of Chicago, Illinois 60604-2027on Friday, May 21, 2021 at 9:00 a.m. or any adjournedor rescheduled date to testify in Imperial Crane Services, Inc.  
13-RC-276523

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**B-1-1CJS3DZ**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated: May 12, 2021



*Lauren McFerran*  
Lauren McFerran, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.



**Documents Requested**

1. A copy of the current Chicagoland Crane Association (CCA) Bylaws.
2. Any other documents which govern the scope of CCA's representation of its member associations or member employers.



## Rider

### Definitions and Instructions

This subpoena is intended to cover all documents that are available to you or subject to your reasonable acquisition, including but not limited to documents in the possession of attorneys, accountants, private investigators, advisers, or other persons directly or indirectly employed by Chicagoland Crane Association (CCA), or anyone else subject to its control. This subpoena does not request documents protected from disclosure by the attorney-client privilege properly identified in a privilege log.

As used in this request, the term "document" or "record" means, without limitation, the following items, whether printed or recorded or reproduced or retained by any other mechanical or electronic process, or written and produced by hand: agreements, communications, correspondence, telegrams, memoranda, facsimile transmissions, voicemails, text messages, instant messages, notes, statistics, letters, pamphlets, newsletters, press releases, bulletins, transcripts, audio recordings, video recordings, summaries or records of telephone conversations, cell phone conversations, summaries or records of personal conversations or interviews, conferences, transcripts or summaries or reports of investigations or negotiations, drafts, letters, internal or inter-office memoranda or correspondence, lists, data contained in computers, telephone systems, scanners, copiers, servers, e-mail, any marginal comments appearing on any documents, and all other writings, figures, or symbols of any kind.

- A. The word "person" or "persons" means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
- B. "The Employer" or "Respondent" or "the Company" means Imperial Crane Services, Inc.
- C. Unless otherwise stated, each item requested in this subpoena covers the period from April 15, 2019, through the present.
- D. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive "or" shall be deemed to include the conjunctive "and" and vice versa; and the words "each," "every," "any," and "all" shall be deemed to include each of the other words.
- E. Any references to the Illinois Building Agreement mean the collective bargaining agreement between the International Union of Operating Engineers, Local 150, AFL-CIO, and the Mid-America Regional Bargaining Association (MARBA) covering the Union's Districts 1-2-3, and/or any predecessor agreements in whatever format.



Case 13-RC-276523

RETURN OF SERVICE

B-1-1CJS3DZ

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

- ☐ by person
- ☒ by certified mail UPS Overnight Delivery
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

(Check method used.)

on the named person on

May 12, 2021

(Month, day, and year)

(b) (6), (b) (7)(C)

(Name of person making service)

(b) (6), (b) (7)(C)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION THIRTEEN**

IMPERIAL CRANE SERVICES, INC.

and

Case 13-RC-276523

IUOE LOCAL 150

**MARBA’S PETITION TO REVOKE SUBPOENA NO. B-1-1CJS3SZ**

Third Party Mid-America Regional Bargaining Association (“MARBA”), pursuant to § 102.66(f) of the National Labor Relations Board Rules and Regulations, respectfully petitions to revoke the subpoena *duces tecum* numbered B-1-1CJS3SZ, requested by Counsel for the Petitioner and received by MARBA on May 13, 2021. A copy of the subpoena *duces tecum* is attached as Exhibit A.

**TIMELINESS**

Pursuant to Section 102.66(f), MARBA is entitled to five (5) days within which to petition for revocation of the Board’s subpoena. Section 102.2(a), provides that when a time period prescribed in the Board’s Rules is less than seven days, weekends and federal holidays are excluded from the computation. MARBA was served with the subpoena *duces tecum* on Thursday, May 13, 2021. Accordingly, the last day for timely submission of this petition is close of business on May 21, 2021. MARBA served this petition on the Regional Director via the Board’s E-Filing system and by mailing a copy of the same via First Class U.S. Mail on Thursday, May 20, 2021.

**BACKGROUND**

MARBA is a multi-employer association focused on collective bargaining in the commercial construction industry. MARBA is a party to the Illinois Building Agreement (the “Building Agreement”) with the Petitioner. The Building Agreement is an 8(f) agreement entered

into by and between MARBA for and on behalf of the individual employer members of its member associations and the Union. One of the member associations is the Chicagoland Crane Association (“CCA”), an association of crane rental companies that provide such services in the greater Chicagoland area. The CCA delegates its members bargaining rights to MARBA. As set forth below, MARBA states that subpoena *duces tecum* numbered B-1-1CJS3SZ should be revoked.

## **GROUND FOR REVOCATION**

### **GENERAL OBJECTIONS**

MARBA asserts the below general objections which are also incorporated into the specific objections set forth herein:

1. Confidential, Proprietary and Privileged Information: Each paragraph of the subpoena *duces tecum* should be revoked insofar as it seeks confidential, private or proprietary information and to the extent it seeks documents and/or information constituting attorney-client privileged communications between MARBA and its counsel or seeks documents and/or information that is protected by the work product doctrine.

2. Overbroad: The Board must revoke portions of the subpoena that are overbroad. *See, e.g., CNN America, Inc.*, 353 NLRB 891 (2009) (“Subpoenas seeking material that does not relate to the issues involved in the proceeding are subject to revocation by the Board on proper application.”); *Millsboro Nursing & Rehab. Ctr., Inc.*, 327 NLRB 879, 881 (1999) (A party is “not entitled to a subpoena from the Board” in support of “a mere ‘fishing expedition.’”).

3. Non-Specific and Vague: Each item of the subpoena *duces tecum* should be revoked to the extent it does not describe the material requested with the specificity and particularity required by 29 C.F.R. § 102.66(f) and § 11776 of the Board’s Case Handling Manual.



4. Information that is not related to the matters in question in this proceeding: Each item of the subpoena *duces tecum* should be revoked insofar as it seeks information that is not related to the petition to convert the multi-employer 8(f) agreement to a single-employer 9(a) agreement or the expansion of the geographic and occupational scope of the unit contained in the 8(f) agreement.

5. Right to Amend and/or Supplement Responses: MARBA's responses to the above-referenced subpoena *duces tecum* are based on the information presently available to MARBA, and are made without prejudice to its right to use subsequently discovered or developed information in any continuing investigation and or proceeding. MARBA reserves the right to amend or supplement its responses accordingly.

6. No Waiver of Objections: MARBA is attempting to comply in good faith with the subpoena where it reasonably can do so. The fact that MARBA responds to part or all of any document request is not intended to be, and shall not be, construed as a waiver by MARBA of any part of any objection to any document request.

#### SPECIFIC OBJECTIONS

More specifically, but without limitation and reiterating all of the above grounds, MARBA objects to each of the requested items in the subpoena *duces tecum* for the following additional reasons:

#### Documents Requested

1. A copy of the current Mid-America Regional Bargaining Association (MARBA) Bylaws.

**RESPONSE:** MARBA objects to this request on the grounds that it is vague and ambiguous as it fails to define the term "bylaws." As defined by Black's Law Dictionary, a "bylaw" is "[a] rule or administrative provision adopted by an organization for its internal governance



and its external dealings.” BLACK’S LAW DICTIONARY (11th ed. 2019). Accordingly, MARBA further objects to this request as overly broad, unduly burdensome, and not relevant to the extent it seeks documents unrelated to the long-established multi-employer bargaining relationship between MARBA and the Petitioner and, as such, is disproportional to the needs of the case.

2. Any other documents which govern the scope of MARBA’s representation of its member associations or member employers.

**RESPONSE:** MARBA objects to this request on the grounds that it is overly broad and unduly burdensome to the extent it seeks “any other documents” governing MARBA’s representation of its member associations or member employers which are documents unrelated to the long-established multi-employer bargaining relationship between MARBA and the Petitioner and, as such, is disproportional to the needs of the case.

WHEREFORE, Third Party Mid-America Regional Bargaining Association respectfully requests revocation of the Board subpoena *duces tecum* numbered B-1-1CJS3SZ for the reasons set forth above.

Dated: May 20, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Norma Manjarrez  
Norma Manjarrez  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
155 North Wacker Drive, Suite 4300  
Chicago, IL 60606-1731  
Telephone: (312) 558-1220  
Facsimile: (312) 807-3619  
*norma.manjarrez@ogletreedeakins.com*

One of the Attorneys for  
Mid-America Regional Bargaining Association

### **CERTIFICATE OF SERVICE**

I certify that on May 20, 2021, a copy of the foregoing ***MARBA's Petition to Revoke Subpoena No. B-1-1CJS3SZ*** was Electronically Filed as a .pdf document via the NLRB's e-filing system and transmitted via regular U.S. Mail to:

Daniel Nelson, Acting Regional Director  
NATIONAL LABOR RELATIONS BOARD, REGION 13  
Dirksen Federal Building  
219 South Dearborn Street, Suite 808  
Chicago, IL 60604

By: /s/ Norma Manjarrez  
One of the Attorneys for  
Mid-America Regional Bargaining Association

# EXHIBIT A

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**To Keeper of Records, Mid-America Regional Bargaining Association (MARBA)2720 South River Road, Suite 222, Des Plaines, Illinois 60018As requested by Robert A. Paszta, Local 150 Legal Departmentwhose address is 6140 Joliet Road Countryside IL 60525  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer  
of the National Labor Relations Boardat NLRB, Region 13, 219 South Dearborn Street, Suite 808 (via Zoom)in the City of Chicago, Illinois 60604-2027on Friday, May 21, 2021 at 9:00 a.m. or any adjournedor rescheduled date to testify in Imperial Crane Services, Inc.  
13-RC-276523  
(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**B-1-1CJS3SZ**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated: May 12, 2021



 A handwritten signature in cursive script that reads "Lauren McFerran".
   
Lauren McFerran, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

- (Check method used.)
- ☐ by person
  - ☒ by certified mail ☐ by registered mail UPS Overnight Delivery
  - ☐ by registered mail
  - ☐ by telegraph
  - ☐ by leaving copy at principal office or place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

May 12, 2021

(Month, day, and year)

(b) (6), (b) (7)(C)

(Name of person making service)

(b) (6), (b) (7)(C)

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

on

(Month, day or days, and year)

(Name of person certifying)

(Official title)

## Rider

### Definitions and Instructions

This subpoena is intended to cover all documents that are available to you or subject to your reasonable acquisition, including but not limited to documents in the possession of attorneys, accountants, private investigators, advisers, or other persons directly or indirectly employed by Mid-America Regional Bargaining Association (MARBA), or anyone else subject to its control. This subpoena does not request documents protected from disclosure by the attorney-client privilege properly identified in a privilege log.

As used in this request, the term “document” or “record” means, without limitation, the following items, whether printed or recorded or reproduced or retained by any other mechanical or electronic process, or written and produced by hand: agreements, communications, correspondence, telegrams, memoranda, facsimile transmissions, voicemails, text messages, instant messages, notes, statistics, letters, pamphlets, newsletters, press releases, bulletins, transcripts, audio recordings, video recordings, summaries or records of telephone conversations, cell phone conversations, summaries or records of personal conversations or interviews, conferences, transcripts or summaries or reports of investigations or negotiations, drafts, letters, internal or inter-office memoranda or correspondence, lists, data contained in computers, telephone systems, scanners, copiers, servers, e-mail, any marginal comments appearing on any documents, and all other writings, figures, or symbols of any kind.

- A. The word “person” or “persons” means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
- B. “The Employer” or “Respondent” or “the Company” means Imperial Crane Services, Inc.
- C. Unless otherwise stated, each item requested in this subpoena covers the period from April 15, 2019, through the present.
- D. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive “or” shall be deemed to include the conjunctive “and” and vice versa; and the words “each,” “every,” “any,” and “all” shall be deemed to include each of the other words.
- E. Any references to the Illinois Building Agreement mean the collective bargaining agreement between the International Union of Operating Engineers, Local 150, AFL-CIO, and the Mid-America Regional Bargaining Association (MARBA) covering the Union’s Districts 1-2-3, and/or any predecessor agreements in whatever format.

### **Documents Requested**

1. A copy of the current Mid-America Regional Bargaining Association (MARBA) Bylaws.
2. Any other documents which govern the scope of MARBA's representation of its member associations or member employers.





# United States of America National Labor Relations Board NOTICE OF ELECTION



**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

**SPECIAL ASSISTANCE:** Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

**PROCESS OF VOTING:** Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. **DO NOT SIGN YOUR BALLOT.** Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

**CHALLENGE OF VOTERS:** If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. **DO NOT SIGN YOUR BALLOT.** Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**IMPERICAL CRANE SERVICE, INC.  
COUNTRYSIDE, IL**

**13-RC-276523  
STIPULATED**

**VOTING UNIT**

**EMPLOYEES ELIGIBLE TO VOTE:**

Those eligible to vote are: All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, and Facilities Delivery employees employed by or assigned from the Employer's facilities currently located at 9735 Industrial Drive, Bridgeview, Illinois 60455, and 301 Civic Road, LaSalle, IL 61301; and, all full-time and regular part-time Facilities Delivery employees employed by or assigned from the Employer's facility currently located at 1349 E. Main Street Griffith, IN 46319; during the payroll period ending May 16, 2021.

**EMPLOYEES NOT ELIGIBLE TO VOTE:**

Those not eligible to vote are: All sales representatives, office and clerical employees, guards, professional employees, and supervisors as defined by the Act.

**DATE, TIME AND PLACE OF ELECTION**

Wednesday, June 2, 2021	5:00 am - 6:30 am	Tent Erected Outside (Located Behind the Hall) 6200 Joliet Road Countryside, IL
-------------------------	-------------------	--

**EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN**



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**UNITED STATES OF AMERICA**  
National Labor Relations Board  
13-RC-276523  
**OFFICIAL SECRET BALLOT**  
For certain employees of  
**IMPERIAL CRANE SERVICES, INC.**



Do you wish to be represented for purposes of collective bargaining by  
**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 150, AFL-CIO?**

**MARK AN "X" IN THE SQUARE OF YOUR CHOICE**

**YES**

☐

**NO**

☐

**DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, return your ballot to the Board Agent and ask for a new ballot. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.**

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:**

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

**The National Labor Relations Board protects your right to a free choice.**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (312)353-7570 or visit the NLRB website [www.nlr.gov](http://www.nlr.gov) for assistance.

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**STIPULATED ELECTION AGREEMENT**

**Imperial Crane Services, Inc.**

**Case 13-RC-276523**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

Imperial Crane Services, Inc., an Illinois corporation, is engaged in crane rental services. During the past calendar year, a representative period, the Company at its Bridgeview, Illinois facility, has purchased and received goods and services valued in excess of \$50,000, directly from suppliers located outside the State of Illinois.

**3. LABOR ORGANIZATION.** The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE: Wednesday, June 2, 2021**

**HOURS: 5:00 am-6:30 am**

**PLACE: Tent erected outside  
(located behind the hall)  
6200 Joliet Road  
Countryside, IL 60525**

The election in this matter will be conducted in-person as long as doing so will not jeopardize public health.

If the Regional Director determines, after consultations with the parties, that it is unsafe to conduct a manual election on the scheduled date, the Regional Director may reschedule the date, time, place of the election and/or manner of election, including converting the election to a mail ballot.

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Initials: **NM/RP**

Included: All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, and Facilities Delivery employees employed by or assigned from the Employer's facilities currently located at 9735 Industrial Drive, Bridgeview, Illinois 60455, and 301 Civic Road, LaSalle, IL 61301; and, all full-time and regular part-time Facilities Delivery employees employed by or assigned from the Employer's facility currently located at 1349 E. Main Street Griffith, IN 46319.

Excluded: All sales representatives, office and clerical employees, guards, professional employees, and supervisors as defined by the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending May 16, 2021**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**6. VOTER LIST.** By May 24, 2021, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Union of Operating Engineers, Local 150, AFL-CIO?" The choices on the ballot will be "Yes" or "No".

Initials: **NM/RP**

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative: Larry Eckhardt 7500 W. Imperial Dr. Bridgeview, IL 60455

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**14. SAFETY PROTOCOLS.** If these protocols cannot be followed (or attested to as required by Memorandum GC 20-10), the Regional Director reserves the right to cancel or reschedule the manual election, or convert the election to a mail-ballot election with ballots being mailed out on or as soon as practicable after the scheduled manual election date. Given the COVID-19 pandemic, in order to protect the voters, observers, Board agent(s), and others during the election and ballot count:

- a. The Petitioner will provide four separate tables with three chairs that will be placed at least 6 feet apart in the voting area: There will be one table for the Employer's Election Observer, one for the Petitioner's Election Observer, one for the Board Agents, and one for the ballots/ballot box/writing utensils. In the event the space of the voting area will not allow for four separate tables; the Petitioner will set the voting area up to ensure that six feet of space between the voters, the Board Agent, and the Election Observers can be maintained at all times;
- b. The Petitioner will place markings throughout the voting area, and in the immediate vicinity outside of that area, to ensure proper social distancing for voters and to ensure that the voting line does not exceed 4 voters at a time;
- c. The Petitioner will ensure that the voting area has sufficient room for voters to maintain 6 feet of space between one another when

Initials: NM/RP



entering and exiting the voting area (the Board Agent will direct the flow of traffic to allow only one voter in the area at a time);

- d. The Petitioner will ensure the voting area has a separate entrance and exit for voters, with markings to depict safe traffic flow throughout the polling area;
- e. The Petitioner will provide hand sanitizers and an abundant number of sanitizing wipes for the voting area;
- f. The Petitioner will provide CDC-conforming masks for all voters;
- g. The Petitioner will provide CDC-conforming masks and gloves for all party representatives and observers;
- h. The Board Agent, voters, and Election Observers shall wear CDC-conforming masks in the voting area during the entirety of the election process. In accordance with the "Voting Place Notice", Form NLRB-5017, the Board Agent has the discretion to advise a voter who is not properly masked in full conformance with CDC guidelines to leave the voting area and return when properly masked;
- i. The Petitioner will provide a sufficient number of disposable pencils without erasers for each voter to mark their ballot.
- j. The Petitioner will provide glue sticks or tape to seal challenged ballot envelopes.
- k. The Petitioner will provide plexiglass barriers of sufficient size to protect the observers and Board agent to separate observers and the Board agent from voters and each other, pre-election conference and ballot count attendees.
- l. The Board Agent has the discretion to limit attendance at the counting of the ballots to the number of people who can maintain 6 feet of space between one another;
- m. All individuals attending the pre-election conference and ballot count shall wear CDC-conforming masks. The Board Agents have the discretion to advise a conference or count attendee who is not properly masked in full conformance with CDC guidelines to leave the conference/count and return when properly masked;
- n. An inspection of the polling area will occur by Zoom videoconference with all parties at 2:00 p.m. on June 1, 2021 so that the Board Agents and parties can view the polling area.
- o. Employer will post signs immediately adjacent to the Notice of Election to notify voters, observers, party representatives, and other participants of the mask requirement;
- p. The Petitioner will sanitize the polling area the day of the election, prior to the start of the pre-election conference.
- q. Parties will immediately notify the Regional Director in writing if any participant in the election, including all representatives, observers, and eligible voters, test positive for COVID-19 or if they have been directly exposed to individuals who have tested positive for COVID-19 **during the 14 days immediately preceding the election date.**

Initials: **NM/RP**

- r. The Petitioner will complete and submit GC 20-10 COVID-19 Certification Forms A and B to the Region within the time frame set forth on the forms. The Forms will be considered by the Regional Director in determining whether conducting the election manually will jeopardize public health. Failure to provide accurate or timely forms may result in the election being cancelled, rescheduled, or converted to a mail ballot election;
- s. The Employer will complete and submit GC 20-10 COVID-19 Certification Form B to the Board Agent conducting the election within the time frame set forth on the form.
- t. Individuals for which Form B was not submitted will not be permitted to be physically present at the pre-election conference, to serve as an observer during the election or at the ballot count.
- u. All parties agree to immediately notify the Regional Director, if, **within 14 days after the day of the election**, any individuals who were present in the facility on the day of the election:
  - have tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days;
  - are awaiting results of a COVID-19 test;
  - are exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, shortness of breath;
  - have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who are awaiting test results for COVID-19 or have been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested).

**IMPERIAL CRANE SERVICES, INC.**

(Employer)

**By:** /s/Norma Manjarrez  
 5/21/21  
 (Signature) (Date)

**Print Name:** Norma Manjarrez

**International Union of Operating Engineers,  
 Local 150, AFL-CIO**

(Petitioner)

**By:** /s/Robert A. Paszta  
 5/21/21  
 (Signature) (Date)

**Print Name:** Robert A. Paszta

Initials: **NM/RP**

\_\_\_\_\_  
(Union)

By: \_\_\_\_\_

(Signature)

(Date)

Print Name: \_\_\_\_\_

Recommended: /s/Christina Hill 5/21/2021  
Christina B. Hill, Field Attorney (May 21, 2021)

Date approved: May 21, 2021

/s/Paul Hitterman, Acting Regional Director /s/Acting ARD KMG  
**Acting Regional Director, Region 13**  
**National Labor Relations Board**

Initials: **NM/RP**

**IMPERIAL CRANE SERVICES, INC.**  
**EMPLOYER**

AND

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 150, AFL-CIO**  
**PETITIONER**

Case No. **13-RC-276523**

Date Filed **MAY 3, 2021**

Date Issued **JUNE 2, 2021**

City **COUNTRYSIDE**

State **IL**

Type of Election:  
(Check one:)

- ☒ Stipulation  
☐ Board Direction  
☐ Consent Agreement  
☐ RD Direction Incumbent Union (Code)

(If applicable check  
either or both:)

- ☐ 8(b) (7)  
☐ Mail Ballot

## TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 29
2. Number of Void ballots \_\_\_\_\_
3. Number of Votes cast for **PETITIONER** 8
4. Number of Votes cast for \_\_\_\_\_
5. Number of Votes cast for \_\_\_\_\_
6. Number of Votes cast against participating labor organization(s) 0
7. Number of Valid votes counted (sum 3, 4, 5, and 6) 8
8. Number of challenged ballots 0
9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 8
10. Challenges are (not) sufficient in number to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (Item 9) has (not) been cast for **PETITIONER**

For the Regional Director

*C. Skill*

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For **EMPLOYER**

*G. Richard*

For **PETITIONER**

*Anthony Brown*

For

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

<b>Imperial Crane Services, Inc.</b>  <b>Employer</b>  <b>and</b> <b>International Union of Operating Engineers, Local 150, AFL-CIO</b>  <b>Petitioner</b>	<b>Case 13-RC-276523</b>
---	--------------------------

**TYPE OF ELECTION: STIPULATED**

**CERTIFICATION OF REPRESENTATIVE**

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

**International Union of Operating Engineers, Local 150, AFL-CIO**

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

**Included: All full-time and regular part-time Craft Foreman, Operators, Oilers, Technicians, Field Mechanics, Shop Mechanics, Apprentices, and Facilities Delivery employees employed by or assigned from the Employer's facilities currently located at 9735 Industrial Drive, Bridgeview, Illinois 60455, and 301 Civic Road, LaSalle, IL 61301; and, all full-time and regular part-time Facilities Delivery employees employed by or assigned from the Employer's facility currently located at 1349 E. Main Street Griffith, IN 46319.**

**Excluded: All sales representatives, office and clerical employees, guards, professional employees, and supervisors as defined by the Act.**



June 10, 2021

/s/ Paul Hitterman

Paul Hitterman  
Acting Regional Director, Region 13  
National Labor Relations Board

Attachment: Notice of Bargaining Obligation

## NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,<sup>1</sup> an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

---

<sup>1</sup> Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

Larry Eckardt, VP Of Operations  
9735 Industrial Drive  
Bridgeview, IL 60455  
[gleckardt@imperialcrane.com](mailto:gleckardt@imperialcrane.com)

Harry J. Secaras Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
155 N Wacker Dr Ste 4300  
Chicago, IL 60606-1731  
[harry.secaras@ogletree.com](mailto:harry.secaras@ogletree.com)

Norma Manjarrez Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
155 N Wacker Dr Ste 4300  
Chicago, IL 60606-1731  
[norma.manjarrez@ogletree.com](mailto:norma.manjarrez@ogletree.com)

Dale D. Pierson Esq., General Counsel  
International Union of Operating Engineers, Local 150, AFL-CIO  
6140 Joliet Rd Legal Department  
Countryside, IL 60525-3956  
[dpierson@local150.org](mailto:dpierson@local150.org)

Robert A. Paszta Esq., Associate General Counsel  
International Union of Operating Engineers, Local 150, AFL-CIO  
6140 Joliet Road  
Countryside, IL 60525  
[rpaszta@local150.org](mailto:rpaszta@local150.org)

International Union of Operating Engineers, Local 150, AFL-CIO  
6200 Joliet Rd  
Countryside, IL 60525-3992